STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Robert Strobel	)	
	Dist 5, Map 164K, Control Map 164K, Parcel 24.00	)	Sumner County
	Residential Property	)	
	Tax Year 2006	)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$40,600	$189,000	$229,600	$57,400

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on August 29, 2006.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on January 16, 2007, at the Sumner County Property Assessor's Office. Present at the hearing were Mr. Robert Strobel and Mr. John Isbell, Assessor for the County and his Chief Deputy, Mr. Don Linville.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 104 Jefferson Drive, in Hendersonville, Tennessee.

The taxpayer, Mr. Strobel, contends that the property is worth $201,200. Mr. Strobel testified that the home is 30 years old, he purchased it in 1985. The home had set vacant for a year before he purchased it, after the purchase price had been reduced $25,000.000. The garage of the home in located in the front of the house, while not a "turn off" to him he believes it will devalue the home if he tries to resale it. Mr. Strobel also alleges that when the City "cut through" Bonita Parkway it made homes on Jefferson Drive less attractive. Mr. Strobel introduced a document which purports to be a side by side comparison of appraisal value of the home located at 102 Jefferson Drive. Mr. Strobel states that 102 Jefferson Drive had consistently been valued above his since 1990, in the reappraisal year 2003 the trend switched, without explanation he alleges, and now his home is appraised more. Mr. Strobel also contends that the home at 102 Jefferson Drive has been extensively renovated and he has made no improvements or renovations to his home.

The assessor contends that the property should be $229,600 based upon the action of the Sumner County Board of Equalization. Additionally, Mr. Linville stated that the value of homes in the area are set by market value, he points out that the home at 102 Jefferson Drive is 2 story home and the home at 104 Jefferson Drive is a ranch style home with a basement. He also states that 2003 was a reappraisal year for Sumner County.[1]

The germane issue is the value of the property as of January 1, 2006.

The basis of valuation as stated in T.C.A.§ 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . . ."

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at $ 229,600 based upon the presumption of correctness attaching to the decision of the Sumner County Board of Equalization.[2]

Additionally, the taxpayers argument for equal treatment is without merit. The case law is replete with cases that essentially hold that it is of no consequence how much or how little your neighbors' property is valued but being able to demonstrate by competent evidence the fair market value of your own property, that is essential in proving the County Boards' values are incorrect.

Since the taxpayer is appealing from the determination of the Sumner County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board,* 620 S.W. 2d 515 (Tenn.App. 1981).

With respect to the issue of market value, the administrative judge finds that Mr. Strobel simply introduced insufficient evidence to affirmatively establish the market value of subject property as of January 1, 2006, the relevant assessment date pursuant to T. C. A. § 67-5-504(a).

As the Assessment Appeals Commission noted in *Payton and Melissa Goldsmith*, Shelby County, Tax year 2001, in quoting the Tennessee Supreme Court in the case of Carroll v. Alsup, 107 Tenn. 257, 64 S.W.193 (1901):

> It is no ground for relief to him; nor can any taxpayer be heard to complain of his assessments, when it is below the actual cash value of the property, **on the ground that his neighbors' property is assessed at a less percentage of its true or actual value than his own.** When he comes into court asking

[1] 2003 is the year Mr. Strobel alleges the values between his home and his neighbor's home at 102 switched.

[2] Neither party offered a sale comparison grid. This adjustment process is an analysis designed to show what the comparable property would have sold for if differences were eliminated. *Property Assessment Valuation,* Second Ed., 1996. See also *Andrew B. & Majorie S. Kjellin,* (Shelby County, 2005)

> relief of his own assessment, he must be able to allege and show that his property is assessed at more than its actual cash value. He may come before an equalizing board, or perhaps before the courts, and show that his neighbors' property is assessed at less than its actual value, and **ask to have it raised to his own,** . . . (emphasis supplied)

In yet another case, the administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et. al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the "Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and **equalized by application of the appropriate appraisal ratio** . . ." Id. at 1.(emphasis added)

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

> In contending the entire property should be appraised at no more than $60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more under appraised than average **does not entitle him to similar treatment.** Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not **adequately indicated how the properties compare to his own in all relevant respects**. . . . (emphasis added) Final Decision and Order at 2.

See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were under appraised . . ." Final Decision and Order at 3.

The Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) has also stated as follows:

> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, **but relevant differences should be explained and accounted for by reasonable adjustments.** If evidence of a sale is presented **without the required analysis of comparability,** it is difficult or impossible for us to use the sale

as an indicator of value. . . . Final Decision and Order at 2. (Emphasis added)

In analyzing the arguments of the Taxpayer, the administrative judge must also look to the applicable and acceptable standards in the industry when comparing the sales of similar properties.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

> To apply the sales comparison approach, an appraiser follows a systematic procedure.
>
> 1. **Research** the competitive market for information on **sales transactions,** listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
>
> 2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
>
> 3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
>
> 4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then ***adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable.*** This step typically involves using the most comparable sale properties and then adjusting for any remaining differences. **Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.** [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001). *Andrew B. & Majorie S. Kjellin,* (Shelby County, 2005)

The taxpayer did not meet his burden of proof in this cause.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$40,600	$189,000	$229,600	$57,400

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of February, 2007.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Robert Strobel
John Isbell, Assessor of Property